

From: Ben Messinger
To: Microsoft ATR
Date: 1/23/02 12:55pm
Subject: Microsoft Settlement

To Whom it may concern,

Thank you for giving me the opportunity to comment regarding the proposed DOJ settlement with Microsoft corporation.

In my opinion there are many serious shortcomings in the proposed settlement. I will take this opportunity to point out only a select few.

1) The proposed final judgement does not address the issue of "file format" documentation. The DOJ identified non-disclosure of Microsoft Office file formats as an Applications Barrier to Entry (findings of fact, paragraphs 20 and 39) - by withholding file format specifications, Microsoft prevents competitors from developing applications which can read or write Microsoft Office compatible files - thus preventing the exchange or sharing of documents between Microsoft Office users and users of competitive software products. This strengthens Microsoft's monopoly by hindering the exchange of information with non-Microsoft products.

2) The proposed final judgement so narrowly defines "API" (application programming interface) that the requirement of Microsoft to disclose it's API's will be interpreted in such a way that many of the most important API's will be excluded from disclosure.

3) The proposed final judgement defines "middleware" and "Windows" so narrowly that very slight changes by Microsoft virtually guarantee Microsoft the ability to circumvent the proposed restrictions by simply altering their products slightly.

4) The proposed final judgement fails to address anticompetitive licence restrictions currently in use by Microsoft which among other things:

a) prevent the use of certain windows components in conjunction with competing software. For example: The Microsoft Windows Media Encoder SDK (a tool for creating windows software) End User Licence Agreement states in part "... you shall not distribute the REDISTRIBUTABLE COMPONENT in conjunction with any Publicly Available Software. "Publicly Available Software" means each of (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g. Linux) or similar licensing or distribution models ... Publicly Available Software includes, without limitation, software licensed or distributed under any of the following licenses or distribution

models, or licenses or distribution models similar to any of the following: GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); The Artistic License (e.g., PERL); the Mozilla Public License; the Netscape Public License; the Sun Community Source License (SCSL); ..."

What this means is that software developers can use the Windows Media SDK to develop their software, but they are not allowed to do so if their software is made "publicly available" under the above definition.

b) Microsoft attempts to prevent the development of software that is compatible with alternative operating system products. The Microsoft Platform SDK, together with Microsoft Visual C++, is the primary toolkit used to create Windows-compatible applications. The Microsoft Platform SDK EULA reads in part: Distribution Terms. You may reproduce and distribute ... the Redistributable Components... provided that (a) you distribute the Redistributable Components only in conjunction with and as a part of your Application solely for use with a Microsoft Operating System Product..." this makes it illegal to run many programs built with Visual C++ on Windows-compatible competing operating systems. By allowing these exclusionary behaviors, the proposed final judgement is contributing to the Applications Barrier to Entry faced by competing operating systems.

It is my deepest hope that you will reconsider the proposed judgement, and rewrite or amend it in such a maner as to remove the many many loop-holes and inadequate provisions which will, if implemented as currently proposed, virtually guarantee that Microsoft will continue in it's tradition of anti-competitive and publicly arrogant disregard for both the letter and spirit of the law.

Sincerely,
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